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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDREW WASHINGTON, JR., A
MINOR, INDIVIDUALLY IN HIS
PERSONAL CAPACITY AND AS
SUCCESSOR IN INTEREST OF
DECEDENT ANDREW WASHINGTON,
SR., BY AND THROUGH HIS
GUARDIAN AD LITEM, ALEJANDRA
RAYA,

Plaintiff,

vs.

Case No. 05-CV-00881 JAM-DAD

**STIPULATION AND
ORDER TO CONSOLIDATE
RELATED CASES – FRCP 42**

TASER INTERNATIONAL, INC.; CITY
OF VALLEJO; et al., ,
Defendants.

LORI BAUER, INDIVIDUALLY, AND
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF ANDREW
WASHINGTON,

Plaintiff,

vs.

CITY OF VALLEJO, A MUNICIPAL
CORPORATION, et al.,

Defendants.

Case No. 06-CV-00549 JAM-DAD

IT IS HEREBY STIPULATED AND AGREED, by and between the parties to this action,
through their respective counsel of record, as follows:

WHEREAS this Court issued a Related Case Order for the concurrently pending civil
actions (Washington) 05-CV-00881 JAM-DAD and (Bauer) 06-CV-00549 JAM-DAD. The
Court reasoned that “the assignment of the matters to the same judge and magistrate judge is
likely to affect a substantial savings of judicial effort and is also likely to be convenient for the
parties.” (See Related Case Order, signed by Hon. District Court Judge John A. Mendez on
March 21, 2013, Document 87 (Washington) and Document 44 (Bauer)).

WHEREAS the parties agree and hereby stipulate to consolidate both actions under FRCP
42(a) for the purposes of remaining discovery, pretrial and trial, in other words, for all purposes.
Good cause for a consolidation of both actions exists because both cases involve the same parties,
the same or similar claims, the same death related event, the same witnesses, same or similar
experts, the same or similar evidence and the same or similar questions of fact and law, as set
forth below. Thus, a consolidation of both cases for remaining discovery, pretrial and trial, in
other words, for all purposes, will likely effect a savings of judicial effort and other economics
and will avoid unjust and different outcomes related to the same alleged wrongful death incident.

WHEREAS both cases involve the same event, the death of Andrew Washington on

September 16, 2004. The City of Vallejo, Jeremie Patzer, and Robert Nichelini are named Defendants in both cases. In addition, City of Vallejo's Police Officers Tom Liddicoet and David Jackson are named in the Bauer action. The plaintiff in the Washington action is the minor son of the decedent, whereas the plaintiff in the Bauer case is the decedent's mother. The claims asserted in both cases are similar as they all arise out of the same incident, namely the alleged wrongful death of the decedent arising out of his contact with the City of Vallejo police officers on September 16, 2004. All in all, the trial of these two cases will likely be almost identical, involving the same or similar parties, witnesses, evidence, experts and overlapping claims. As such, these two cases should be consolidated for all purposes.

WHEREAS consolidating both cases is also warranted to avoid inconsistent orders, judgments and/or trial outcomes. As both cases involve the same questions of fact and law, they should yield the same result. Plaintiffs in both cases claim damages against the Vallejo Defendants for the wrongful death of Andrew Washington on September 16, 2004. The factual issues in both cases will be identical. The legal questions in both cases will be practically identical, with some minor differences due to the fact that one Plaintiff is the son of the Decedent and one is the mother. The overlap in factual and legal issues will be substantial, if not identical. Trying both cases in separate trials and/or deciding both cases in relation to separately filed motions for summary judgment would not only entail substantial duplication of labor, but more importantly, there would be a substantial risk of inconsistent orders, judgments and/or trial outcomes. Furthermore, while each plaintiff maintains his or her own personal and separate cause of action, a wrongful death action is generally considered joint, single and indivisible. All heirs should join in a single action (the so called "one action rule"). San Diego Gas & Elec. Co. v. Superior Court (2007) 146 Cal.App.4th 1545, 1551 (emphasis added).

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1 THEREFORE the parties agree and hereby stipulate to consolidate both cases under
2 FRCP 42(a) for remaining discovery, pretrial and trial purposes, in other words, for all purposes.

3 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD**

4 DATED: March 28, 2013

CASPER, MEADOWS, SCHWARTZ & COOK

5 By: /s/

6 ANDREW C. SCHWARTZ

7 JOHN C. BURTON

8 MARK E. MERIN

Attorneys for Plaintiff

9 ANDREW WASHINGTON, JR.

10 Dated: March 28, 2013

LAW OFFICES OF JOHN L. BURRIS

11 By: /s/

12 John L. Burris, Esq.

13 Benjamin Nisenbaum, Esq.

Attorneys for Plaintiff Lori Bauer

14 Dated: March 27, 2013

15 MCNAMARA, NEY, BEATTY, SLATTERY,
16 BORGES & AMBACHER LLP

17 By: /s/ Noah G. Blechman

18 James V. Fitzgerald, III

19 Noah G. Blechman

20 Petra Bruggisser

Attorneys for Defendants (both cases)

21 **ORDER**

22 Good cause having been shown by the parties, the Court hereby orders that the civil
23 actions (Washington) 05-CV-00881 JAM-DAD and (Bauer) 06-CV-00549 JAM-DAD are
24 hereby ordered CONSOLIDATED for all purposes per FRCP 42 (a). The earlier filed case,
25 (Washington) 05-CV-00881 JAM-DAD, shall be the leading case. The caption on documents
26 filed in the consolidated cases shall be shown as 2:05-CV-00881 JAM-DAD.

27 **IT IS SO ORDERED.**

28 Dated: April 2, 2013

/s/ John A. Mendez

Honorable John A. Mendez

United States District Court Judge